IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

CHAMBER SUMMONS NO. 1176 OF 2004
IN
SUIT NO.5757 OF 1998

Smt. Hemlata Keshavji Gala
and Anr. ....plffs
vs.
Chunnilal Punshi Satra
and Ors. ....Defnds

C.S. Balsara with Mr. N. Gada i/b. Hukumchand and Co. for the plffs.

Milind Vasudeo i/b. Puranik and Co. for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 26TH APRIL, 2005.

P.C.:.

1. In the present chamber summons the order passed by the court receiver dated 29.6.2004 is challenged. By the said order the court receiver has fixed the final royalty in respect of the occupancy of the premises bearing shop no.6 situated at Bandra around 258 sq.ft. The Court Receiver while fixing the said royalty amount

as proceeded on a footing i.e. he has fixed the amount on the basis of equity and he has ignored the report filed by own appointed valuer. The court receiver has also relied upon the judgment of J, Kochar, J Pradeep Mody vs. Shashikant Mody reported in 1998(3) Bom. C.R.823. The aforesaid judgment has already been distinguished by the Division Bench in Appeal No.77 of 2003 in Chamber Summons No.1348 of 2002 in the case of Mrs. Vidya Prem Rathore vs. Ms. Sushma Kishore Mehta and Ors decided by A.P. Shah and Smt. Ranjana P. Desai, JJ dated 24.2.2003. I have in my own judgment in the case of **Chamber summons No.1336 of 2003 in Suit No.4913 of 2000 alongwith Chamber Summons No.1488 of 2003 in Suit No.4913 of 2000 in the case of Majid Ahmedbhai Oomerbhoy vs. Rashid Sattar Oomerbhoy and Ors And The Court Receiver, High Court, Bombay and Anr. dated 23.3.2005** has held that the judgment of Kochar, J has no application save and accept where the receiver is appointed of tenancy rights. In view the fact that the receiver has fixed the royalty amount on wrong principles, the court receiver will remand the matter for refixaton of the royalty. The Court Receiver to fix the royalty amount on or before 30.6.2005.

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